

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STEVEN E. RILEY,

Plaintiff,

v.

S KERNAN, et al.,

Defendants.

Case No.: 16cv405-MMA-LL

**ORDER DENYING AS MOOT
PLAINTIFF'S APPLICATION FOR
HEARING DAY AND TIME FOR
TWO MOTIONS**

[ECF No. 72]

Presently before the Court is an application from Plaintiff, proceeding pro se, seeking hearing dates and times for a motion for appointment of counsel and a motion to amend the scheduling order. ECF No. 72. Plaintiff indicates that he is seeking a sixty-day extension "to file additional pleading, joinder, or amendment(s)." *Id.* Currently, the deadline to file any motion to join other parties, to amend the pleadings, or to file additional pleadings is September 18, 2020. ECF No. 68 at 1.

On August 20, 2020, the district judge rejected a document from Plaintiff requesting a hearing date and time for a motion for appointment of counsel and noted that "if Plaintiff wishes to seek appointment of counsel in the future he need not obtain a hearing date prior to filing a motion for such relief. As this matter has proceeded beyond the pleading stage, any future motion for appointment of counsel should be directed to the attention of the

1 assigned magistrate judge.” ECF No. 67. Therefore, it is clear that Plaintiff is not required
2 to obtain a motion hearing date before filing a motion for appointment of counsel.

3 The undersigned magistrate judge’s Civil Chambers Rules, which are posted on the
4 Court’s website, states the following regarding requests to amend a scheduling order:

5 The dates and times set in the Scheduling Order **will not** be modified
6 except for good cause shown and with the Judge’s consent. Fed. R. Civ. P.
7 16(b)(4). Counsel are reminded of their duty of diligence and that they must
8 “take all steps necessary to bring an action to readiness for trial.” Civil Local
Rule 16.1(b).

9 Before requesting an extension of any dates, the attorneys must “meet
10 and confer” and the request should then be made by filing a joint motion. The
11 joint motion must establish good cause for the request and shall include a
12 declaration from counsel of record detailing the steps taken to comply with
13 the dates and deadlines set in the order, the specific reasons why the deadlines
14 cannot be met, and any prior requested or approved modifications to the order.
15 A party seeking a modification may move *ex parte* if the other parties will not
16 join in a motion to amend the schedule. In an *ex parte* motion, the declaration
must address the steps counsel took to obtain a stipulation, as well as the
subjects required for the joint motion. When the motion is made after time has
expired, Fed. R. Civ. P. 6(b)(1)(B) requires the parties to address excusable
neglect.

17 Judge Lopez Civil Chambers Rules, Section III.C. Although the rule refers to attorneys and
18 counsel, the rule also applies to unrepresented parties, such as Plaintiff. Judge Lopez does
19 not require a motion hearing date to be obtained prior to filing a motion to amend the
20 scheduling order. Additionally, the Court, in its discretion, will allow Plaintiff in this
21 instance to file his motion to amend the scheduling order on an *ex parte* basis, without first
22 meeting and conferring with opposing counsel, because the deadline he wishes to extend
23 is quickly approaching.

24 Accordingly, for the reasons set forth above, the Court **DENIES AS MOOT**
25 Plaintiff’s request for motion hearing dates. Plaintiff may submit his motion for

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1 appointment of counsel and *ex parte* motion to amend the scheduling order without
2 obtaining motion hearing dates.

3 **IT IS SO ORDERED.**

4 Dated: September 11, 2020



Honorable Linda Lopez
United States Magistrate Judge